

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 2

Call to Order: By **SEN. BOB KEENAN**, on April 26, 2003 at 9:30
A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Rep. Dave Lewis, Chairman (R)
Sen. Bob Keenan (R)
Rep. Monica Lindeen (D)
Sen. Linda Nelson (D)
Rep. Jeff Pattison (R)

Members Excused: None.

Members Absent: None.

Staff Present: None.

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 2, 4/22/2003
Executive Action:

CHAIRMAN TOM ZOOK advised they would start with Section A, recess, and then allow the figures to be worked up to see if the budget office and the fiscal analyst's office are in agreement. He clarified how conference committees work. He stated it takes two positive votes from each House for anything to pass. There can be a majority vote, four to two, and it still doesn't mean a motion passes.

Section A:

Motion: SEN. BOB KEENAN moved that HB000241.ALZ BE ADOPTED with the exception of amendment #3 and amendment #6.

EXHIBIT (frs89hb0002a01)

SEN. KEENAN said #1, #2, #4, #5 provide state special revenue authority which is the amount the counties would pay the state under SB 490.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000249.ALZ BE ADOPTED.

EXHIBIT (frs89hb0002a02)

SEN. KEENAN stated the amendment brings the Governor's office to the Executive budget level like all of the other agencies will be, with the exception of DNRC. He indicated he had an amendment to mitigate part of that reduction as well.

Discussion:

REP. MONICA LINDEEN advised she would oppose the amendment. She thought everything that was currently funded in the Governor's office would give them the ability to perform the duties of the office, and she saw no reason to add another \$500,000.

REP. DAVE LEWIS said he could support this, as long as he gets some support for 256.alz, which is to add some money to the Legislative Branch.

REP. LINDEEN asked where the \$500,000 would come from.

CHAIRMAN ZOOK indicated it comes out of general fund.

REP. LINDEEN said considering the fact there are still a lot of critical needs, she wondered what would not get funded in it's place.

CHAIRMAN ZOOK advised they have a long way to go, and haven't addressed the other sections. Money may appear.

REP. LINDEEN said she could appreciate and respect that, but was curious why they didn't do **Department of Family Services** in **Section C** first, before putting money back in the Governor's office.

CHAIRMAN ZOOK reiterated they were on **Section A**.

SEN. NELSON felt this was the wrong thing to do at this time.

SEN. KEENAN said this brings the Governor's office up to the Executive budget. **DPHHS**, with the passage of **SB 407**, is at the level of the Governor's budget, and with **SB 485**, is another \$11.888 million above. He indicated he has amendments in **Section B** as well.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: REP. LEWIS moved that HB000256.ALZ BE ADOPTED.
EXHIBIT(frs89hb0002a03)

REP. LEWIS said this restores some of the general fund dollars the Legislative Branch gave up that are critical to the operations of the Branch.

Discussion:

REP. LINDEEN indicated when the Legislative Branch came into the subcommittee, they had already spent a considerable amount of time putting together a budget which the leadership agreed on. The branch took severe reductions, but there was agreement and she wasn't sure why they need to put it back in.

REP. LEWIS pointed out they would still be \$200,000 below present law. The operations, systems, and support critical in the operation of the Legislature are fully justified.

CHAIRMAN ZOOK advised that is why there are conference committees on bills where there are disagreements. When it comes down to the end, adjustments are made--especially in this bill because there is so much involved. As they go through the process they make a lot of reductions, because they have to hedge their bets. This was especially so this time around with the revenue picture not being very clear.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: SEN. KEENAN moved TO RECONSIDER ACTION ON HB000251.ALZ for the purposes of moving that amendment.
EXHIBIT(frs89hb0002a04)

SEN. KEENAN said this is the for TVMT for \$8,400.

CHAIRMAN ZOOK advised they were short of money because there was a bill this session that reduced the lobbyist fee. The amendment would bring funding back up.

SEN. KEENAN asked about the status of **HB 689**. **CHAIRMAN ZOOK** indicated it's on its way to the Governor.

Vote: Motion failed with Keenan, Lewis, Nelson, and Zook voting aye.

- Recess 9:40 -
- reconvene 9:52 -

CHAIRMAN ZOOK called the attention of the committee to page four, line one of the bill. There was a suggestion to change the language to "payment of the state's share of assumed vacation and sick leave of county employees."

Motion/Vote: **CHAIRMAN ZOOK** moved TO CHANGE THE LANGUAGE ON PAGE FOUR, LINE ONE. Motion carried unanimously.

Clayton Schenck, Legislative Fiscal Analyst, advised they have done a number of amendments that did not have time for legal review or editing. He requested affirmation, in a vote by the committee, for the staff to have liberty to make sure those amendments get through legal review and get corrected. They would like to be able to make those adjustments as long as they are not material or substantive in nature. If they have problems with anything material, they will give them back. There is concern that here at the last minute there is not time for legal and grammar review.

Motion/Vote: **SEN. KEENAN** moved TO ALLOW THE FISCAL ANALYST'S OFFICE THE LIBERTY FOR STAFF TO MAKE THE NECESSARY LEGAL and GRAMMATICAL CHANGES. Motion carried unanimously.

Motion/Vote: **CHAIRMAN ZOOK** moved TO CLOSE SECTION A. Motion carried unanimously.

Section B:

Motion: **REP. JEFF PATTISON** moved that HB000271.ALS BE ADOPTED to replace HB000257.als. **EXHIBIT**(frs89hb0002a05)

CHAIRMAN ZOOK advised this would replace an amendment passed the previous day. It changes the source of funding from general fund to a federal grant.

Vote: Motion carried unanimously.

SEN. KEENAN asked **Lois Steinbeck, Legislative Fiscal Division**, about the references in **HB 2** to the Prevention and Stabilization

Fund. It was his understanding that isn't a vehicle that needs to be in **HB 2**.

Ms. Steinbeck advised there were two amendments that strike all references to **SB 485**. Another puts contingent voidness in the bill if **SB 485** passes in a form that has revenue in the stabilization account and funds everything. It is in a free conference committee. It depends what the legislature wants to do. If they want those items funded, the Governor can line item veto in both bills. If they are in both bills, it takes two actions.

SEN. KEENAN said there is still reference in **SB 485** to the Prevention and Stabilization Fund.

Ms. Steinbeck advised there are three bills that include the Prevention and Stabilization Fund, including **HB 743**, **HB 722**.

SEN. KEENAN wished staff to walk through **HB000253.apg**
EXHIBIT(frs89hb0002a06).

Pat Gervais explained the amendment removes the childcare funding that was added by the Senate for \$15 million. It reinstates the \$15 million unspecified reduction that was removed from **DPHHS** budget on the Senate floor. On page three is an explanation of the amendment item by item. *{Tape: 1; Side: B}*

SEN. KEENAN asked what is the match for general fund for childcare. **Ms. Gervais** indicated there are three or four funding streams for child care, and a maintenance of effort that has to be spent to draw the matching funds. That is within the base budget. There is a matching funding stream that is matched at the same rate as Medicaid. The department needs \$2.8 to \$2.9 million for the biennium above the Executive budget in order to draw down all the available federal matching funds. There is also a federal stream that is 100% federal. **SEN. KEENAN** inquired if general fund is needed. **Ms. Gervais** advised they could use state special revenue.

SEN. KEENAN spoke to the amendment he had drafted to remove \$1 million a year from TANF. **Ms. Gervais** indicated #1 on page 3 says \$1.5 per year. In the second year, money is moved within the line from TANF cash assistance to child care. It will show within the budgeting system, but in the bill it's just a federal funds change.

CHAIRMAN ZOOK asked if the \$1.5 million is general fund. **Ms. Gervais** indicated it is federal funds.

SEN. KEENAN asked about an amendment he had drafted dealing with \$2 million in TANF cash assistance. **Ms. Gervais** advised **HB000254.apg** would reduce cash assistance benefits by \$1 million per year. The amendment was designed to add to childcare. **EXHIBIT(frs89hb0002a07)** **SEN. KEENAN** asked if that is not matchable. **Ms. Gervais** indicated no. **SEN. KEENAN** stated it can't go to maintenance of effort, and it is federal funds being shifted from TANF cash assistance to childcare. **Ms. Gervais** said that is correct. They have now matched federal funds with federal funds. **SEN. KEENAN** advised **HB 000254.apg** could be pulled. He advised in #2, they are reversing the Senate floor amendments. **Ms. Gervais** indicated in #2 and #5, there were two line items added on the Senate floor. One was \$14.4 million for childcare, and one was \$650,000 for CPS childcare. Item #2 and item #5 remove the funding for those two items. That is duplicated in amendment **HB000257.apg**. **EXHIBIT(frs89hb0002a08)** **SEN. KEENAN** asked about #3. **Ms. Gervais** advised #3 renames a line item in the bill called "childcare based funding" to "child care funding." The amendment continues the line item restricted appropriation in FY 2004 for childcare, but not for FY 2005. Item #4 adds \$800,000 of general fund in FY 2004 and \$2 million of federal funds in FY 2004 for childcare. The \$2 million is part of the \$3 million taken out in #1. **SEN. KEENAN** asked where the \$800,000 comes from other than the general fund. **Ms. Gervais** indicated it is a general fund appropriation. If the \$2 million from **SB 485** is put into childcare and matched, the department needs about \$900,000 additional general fund or matchable state or federal revenue in order to draw down all the childcare matching funds. #6 reverses the \$15 reduction that was taken in the Senate, and #7, #8, #9, #10, and #11 deal with language making the restriction on the child care line consistent with what was done in the amendment. There is also language about TANF funds, and if there is a reserve of TANF funds, this modifies that language.

CHAIRMAN ZOOK asked **Ms. Gervais** to determine how much over the Governor's budget they were at that point.

SEN. KEENAN asked **Chuck Swysgood, Office of Budget and Program Planning** about the \$800,000.

Director Swysgood, said the additional \$800,000 general fund is of concern.

SEN. KEENAN asked if the \$800,000 general fund could be mitigated with the \$650,000 in #5.

Director Swysgood indicated #5 removes \$650,000 of general fund for the biennium for Child Protective Services childcare. He assumed the Senate removed some funding from the budget in this amount. If that was removed from the base budget for something else, then it could be mitigated.

SEN. KEENAN asked **Ms. Gervais** to comment. **Ms. Gervais** indicated the \$650,026 for CPS childcare was a reduction included in the Executive budget. That item was restored in the Senate amendment because the \$325,013 per year is used to draw down federal childcare matching funds. She addressed **CHAIRMAN ZOOK'S** question noting the Executive budget included three reductions in general fund that is used to match federal childcare funds. There was \$276,000 in the first year, and \$607,000 in the second year of the biennium, for a total of about \$876,000 in human and community services division, as well as the \$650,000 reduction in child and family services for CPS childcare. That is a total of about \$1.5 million general fund reduction that was used as childcare match. This amendment would restore \$900,000 of that.

SEN. KEENAN said it's not in **HB 2** currently. **Ms. Gervais** said right now, before they adopt an amendments, the \$15 million of childcare is funded in **HB 2**, and would provide matching funds the department needs to pull down the federal match. If the amendment is adopted, and the \$15 million is removed, it's not.

CHAIRMAN ZOOK said he had an amendment that is a simpler place to start. The amendment reverses the action of **SEN. JOHN COBB'S** and **CHAIRMAN ZOOK'S** amendments on the floor. That puts it back the way it was when it came to the floor from the **Senate Finance Committee**.

SEN. KEENAN advised his concern is that with that amendment there is insertion of the Prevention and Stabilization.

Ms. Gervais advised amendment **HB000244.apg** exactly reverses the two amendments from the Senate floor, and puts the money back into the Prevention and Stabilization Fund. Amendment **HB000257.apg** would strike the \$15 million funded for child care; it does not move it back to the Prevention and Stabilization Fund. Amendment **HB000256.apg** adds back \$14 million of the \$15 million reduction. Those two amendments combined are similar to **HB000244.apg**.

CHAIRMAN ZOOK thought they were better and cleaner. **Ms. Gervais** indicated the amendments will eliminate the \$15 million, and add back \$14 million in unspecified reductions which would leave \$1 million general fund in the department's budget. She advised a motion indicating their desires regarding a restricted line item appropriation and how they would like this reflected in the bill.

Currently, there were two restricted line item appropriations for child care. Amendment **HB000257.apg** strikes one line item. They would still then have a line item restricted appropriation for the base budget for child care.

Motion: **SEN. KEENAN** moved that **HB000257.APG BE ADOPTED**. (Exhibit 8)

REP. LEWIS asked **REP. EDITH CLARK** to comment.

REP. CLARK the department would take a \$1 million reduction, and childcare would not be funded.

Director Swysgood commented if they pass **HB000256.apg** just like it is, it puts \$1 million in the general fund balance. If they pass **SEN. COBB'S** amendment like it is, they will have done what they are trying to do, and gain \$100,000 general fund. The one remaining issue would be the restricted language.

SEN. KEENAN indicated by passing **HB000256.apg** they have a net gain of \$1 million general fund. **Ms. Gervais** said if they pass that amendment, the department is reduced \$1 million. If they adopt **SEN. COBB'S** amendment, they would provide \$900,000 of that for childcare.

SEN. KEENAN advised they could pass 256, 257, and 253 to accomplish what they want to accomplish.

REP. LEWIS agreed.

Ms. Gervais believed there are parts of 253.apg they will not want to adopt. Item #6 adds back the whole \$15 million.

SEN. KEENAN asked if issues like this would fall under their earlier motion that technical changes can be worked through by staff.

Taryn Purdy, Legislative Fiscal Division, indicated as long as the committee is confident they know what the policy is, staff can make the amendment conform to the intended policy. This is beyond a technical amendment, and may be getting to a conceptual amendment.

SEN. KEENAN asked if they pass 256, 257, and 253 minus #6, if 7-10 related to #6. **Ms. Gervais** thought they would need to look at the language associated with the reduction on page B-8, line 15. The amendment changes the dollar amount, but they may want to strike language giving the department priorities for where the reductions should occur.

SEN. KEENAN asked **Director Swysgood** if he concurred with striking the language regarding the priorities.

Director Swysgood thought amendment #9 deals with federal funds and the rainy day fund.

Ms. Steinbeck advised the priorities being referred to came with **SEN. ZOOK'S** amendment on the Senate floor.

Director Swysgood thought they needed to strike the priorities.

SEN. KEENAN withdrew his motion to adopt HB000257.agp.

Motion: **SEN. KEENAN** moved a **CONCEPTUAL MOTION TO STRIKE THE LANGUAGE ON B-8 LINES 15-20 INCLUSIVE.** {Tape: 2; Side: A}

Discussion:

REP. LINDEEN asked about the effect of removing the language.

Ms. Gervais replied the effect of this motion would be to strike that language. Subsequent motions will reduce the unspecified reduction from \$15 million to \$14 million. The amount held back will be a \$1 million reduction in the operations and technology division. A subsequent amendment will add \$900,000 of the \$1 million to the childcare budget, and the net impact is \$100,000 to the department as a whole. That \$900,000 combined with the \$2 million state special revenue in **SB 485**, would provide the department all of the funds they need to draw down federal childcare matching funds.

Vote: Motion carried unanimously.

Motion/Vote: **SEN. KEENAN** moved that HB000257.AGP BE ADOPTED. (Exhibit 8) **Motion carried unanimously.**

Motion/Vote: **SEN. KEENAN** moved that HB000256.APG BE ADOPTED. **EXHIBIT**(frs89hb0002a09) **Motion carried unanimously.**

Motion: **SEN. KEENAN** moved that HB000253.APG EXCEPTING #6 BE ADOPTED. (Exhibit 6)

Ms. Gervais advised #6 strikes the \$2 million and \$1 million on page B-3 line 17, and inserts \$9 million. That segment was done in a different amendment. The balance of the amendment should be adopted because it would make the language consistent with the other actions. This amendment will accomplish a reduction in cash assistance benefits of \$1.5 million per year, add \$2 million

to childcare in the first year, and \$1 million in the second year. The funding for childcare in FY 2004 will be a restricted line item, but not in FY 2005. It brings the language with regard to a TANF reserve and TANF expenditures consistent with the action in the amendment. The amendment would then provide the \$900,000 general fund for childcare.

SEN. KEENAN asked which number in the technical numbers does #6 relate to.

Mr. Gervais said it refers to the reinstatement of the \$15 million general fund that was removed on the Senate floor, and #6 relates to #6 in the notes.

Director Swysgood addressed #11 on page two. He informed the committee they would do everything in their power to abide by the intent of the legislature. If he sees the need for this to be used somewhere else, it is his prerogative to change that funding around if it is absolutely necessary.

SEN. KEENAN said it appeared to him they were front-loading 2004. There is 14 months of childcare, and then they get clipped. He asked if that could be mitigated through the first fiscal year of the biennium, or would this policy decision be a problem.

Director Swysgood advised that is the situation created when they fund programs that don't have an ongoing revenue stream. In the Executive budget, they did not fund childcare because federal funds went away. If the problem resurfaces, the department will have to handle that. He said he would make it work with the available revenue. If there is some reason he can't fund childcare because of some other occurrence that is a higher priority and mandated, he will look closely at it.

SEN. KEENAN said page three, #2, removes the restricted line items.

CHAIRMAN ZOOK asked if it was his intention not to do item #2, because it's already been done.

Ms. Gervais advised line two has been taken care of; it strikes the \$15 million.

SEN. KEENAN asked if #5 had been taken care of as well, and was told yes. He rephrased his amendment.

Substitute Motion: **SEN. KEENAN** moved that HB000253.APG # 1,3,4, and 7-11 BE ADOPTED. (Exhibit 6)

Discussion:

REP. LINDEEN recapped her understanding of the amendment. **Ms. Gervais** advised childcare is \$2.8 million in 2004, and \$1.8 million in 2005. Of that amount \$3 million is federal funds, and \$900,000 is general fund. **REP. LINDEEN** asked if the \$3 million is from TANF, and **Ms. Gervais** said that is correct. **REP. LINDEEN** asked about the effect of reducing TANF cash assistance benefits. **Ms. Gervais** said it is likely, because of increasing caseload, that the department will need to reduce the monthly cash assistance benefit in order to remain solvent within the block grant. The reduction of \$1.5 million potentially increases the amount of reduction needed. **REP. LINDEEN** asked if there is a certain dollar amount. **Ms. Gervais** indicated the \$1.5 million was calculated based upon a \$20 per month reduction for 6500 cases. In actuality, the department establishes the monthly cash benefit based upon a percentage of the poverty level. They will go into administrative rule and adjust the percentage of the poverty level that establishes the cash assistance benefit. The other concern of the department is caseload has been increasing at about 9% per year the last two years. If caseloads continue to increase at that level, they will need to reduce the cash assistance benefit to support the increased caseload.

REP. LINDEEN asked what happens if that occurs. **Ms. Gervais** said that is a policy question. The department has indicated the provision of childcare might prevent 200-400 folks from needing cash assistance.

Hank Hudson, DPHHS, commented they decided it would be advisable to spend a little below the current 2002 base to see if increasing childcare would result in reducing the cash benefit caseload. That would free up TANF money to deal with the clip that is coming in 2005. It is possible increasing child care spending in 2004 won't decrease the demand for TANF cash benefits, and then they would have to take a look at moving money back into the cash benefit caseload and reducing childcare availability. He thought the cash benefit level can't be reduced so low people can't pay their rent or basic necessities.

CHAIRMAN ZOOK advised there are only so many dollars to work with, and it's probably a good thing.

SEN. NELSON asked **SEN. COBB** to comment.

SEN. COBB said **SEN. KEENAN** fixed the bill up and found an extra \$1 million; they can pass it, and that's the best they can do.

Vote: Motion carries with Lindeen voting no.

Motion: SEN. NELSON moved that HB000274.ALS BE ADOPTED.
EXHIBIT(frs89hb0002a10)

SEN. NELSON advised the amendment restores funding that was removed from the nursing home budget to fund other health and human service programs. This IGT money was used to fund at risk nursing homes, largely small rural facilities. If the motion passes, about \$700,000 taken from the nursing home IGT program will go back to the nursing homes. These monies are eligible for a good federal match, and she felt that to be important.

CHAIRMAN ZOOK asked if these were all state special and federal revenue.

SEN. KEENAN said this is part of the intergovernmental transfer per bed in the nursing homes. It is not general fund money. This reverses a piece of an amendment he made in **Senate Finance Committee**. He said he would support this on the grounds that over the past two years the nursing homes have given up part of the IGT to support mental health services.

Vote: Motion carried unanimously.

REP. LINDEEN advised **HB000248.als** uses the money generated from **HB 721**.

Ms. Steinbeck stated this deals with page B-5, line 19, and is an appropriation of \$257,000 each year from the Prevention and Stabilization Fund for Meals on Wheels. The amendment as originally written would take out "Prevention and Stabilization fund" and insert "general fund."

REP. LINDEEN advised she would like to take the \$375,000 generated from **HB 721** and use it to fund the aging services for Meals on Wheels at \$257,000 per year.

Ms. Steinbeck explained this has to be accomplished with a funding switch. There is \$375,000 state special revenue each year of the biennium from the Waters Edge Corporation Tax bill that must be used for Medicaid matching dollars. This would lower general fund by that amount in existing Medicaid services, and use \$257,000 of that each year for Meals on Wheels. This can either make the general fund \$118,000 to the good, or be used somewhere else in the budget.

REP. LINDEEN offered the \$118,000 could be given to Medicaid for matching dollars and used for the WIC program.

Motion: REP. LINDEEN moved that HB000248.ALS BE ADOPTED.
EXHIBIT(frs89hb0002a11)

REP. LEWIS asked Terry Johnson, Legislative Fiscal Division, about using money out of HB 721, and noted he didn't see it on the status sheet.

Mr. Johnson advised the bill puts the money in a state special revenue account.

REP. LINDEEN said her intention was to put \$257,000 per year into Meals on Wheels, \$12,828 per year towards the WIC program, and whatever is left towards Medicaid.

Ms. Steinbeck advised the \$375,000 doesn't occur until the second year of the biennium, so the full \$375,000 would be taken in the second year to partially fund Meals on Wheels. She apologized for the error. The tax imposed in 2004, which means the receipts are received in 2005.

REP. LEWIS asked if HB 721 puts the money in a special revenue account, wouldn't an amendment be needed to HB 721 in order to do this. Mr. Johnson did not believe so.

{Tape: 2; Side: B}

Ms. Steinbeck advised this is a funding switch.

Vote: Motion failed with Lindeen and Nelson voting aye.

SEN. NELSON advised the amendment HB000251.APG addresses facilities that have to provide 24 hour care seven days a week.

CHAIRMAN ZOOK declared it has a general fund hit of \$7.2 million.

SEN. NELSON asked Gail Gray, DPHHS, to comment. Ms. Gray commented vacancy savings are at 4-5% currently, and they can deal with this other than with places that require 24/7. It is the direct care staff they are concerned about. If direct care staff aren't there, they have to hire a travel nurse at a higher cost. When they have vacancy savings, the impact because of direct care staff is much greater.

SEN. NELSON asked how they would manage.

Ms. Gray indicated they would increase the vacancy savings in other programs.

REP. LEWIS maintained the budget director has \$1.5 in the contingency account, to draw on as well.

Ms. Gray said they were aware of that fund, but because they are such a large department there is not as much sympathy as for a small agency. It is certainly not a guarantee.

Motion/Vote: **SEN. NELSON** moved that HB000251.APG BE ADOPTED. **EXHIBIT** (frs89hb0002a12) Motion failed with Lindeen and Nelson voting aye.

SEN. KEENAN addressed the motion of **SEN. NELSON** which reversed the **Senate Finance and Claims** full committee action on the nursing home IGT. With that amendment, they hit the community services rate increase for assisted living, home health, and the personal care attendant increase. In **HB 721**, which they had just discussed, in the second year of the biennium there is \$375,000.

Motion: **SEN. KEENAN** moved a **CONCEPTUAL AMENDMENT TO TAKE THE \$375,000 STATE SPECIAL REVENUE ASSOCIATED WITH HB 721 IN 2005, PUT THAT INTO MEDICAID, AND REMOVE THE \$375,000 FROM MEDICAID TO MITIGATE THE DECREASES IN 2005 IN THOSE TWO LINE ITEMS.**

Ms. Steinbeck indicated this is not a rate increase; it is the Executive budget proposed rate reductions for all Medicaid services. The only providers in Medicaid who would be getting the proposed rate reductions under the Executive budget will be the community service providers for senior and disabled folks. She indicated those are Medicaid services, and the \$375,000 could be used directly. She asked if they would like to divide it equally between the two years, etc.

REP. LEWIS thought it would be better to split it.

SEN. KEENAN asked if it would be appropriate to break it up proportionately.

Ms. Steinbeck said there is a judgement call for the committee to make. The direct care workers in senior long term care were the only direct care worker staff that did not get a pay increase during FY 2003. The last legislature was very concerned about Medicaid rates and appropriated a significant amount of money for provider rate increases.

CHAIRMAN ZOOK advised they would split it.

REP. LINDEEN asked for clarification. **SEN. KEENAN** advised it is going to home health, community services, assisted living, and

personal care attendant pay increases. **REP. LINDEEN** responded it was going to workers pay increases instead of providing Meals on Wheels for the seniors.

REP. LEWIS said that money would be matched with Medicaid three to one under the proposal.

Vote: Motion carried with Lindeen voting no.

Ms. Steinbeck advised they might have to open the section in regard to **SB 485**. If the conference committee leaves the appropriations directly in **SB 485**, there would be duplicate appropriations and potentially different appropriations. She said the committee might want to revisit the issue; they could take **SEN. KEENAN'S** motion to strip everything out, or take the amendment **SEN. COBB** requested to have contingent voidness.

REP. PATTISON explained he had emails regarding amendment **HB000258.als**. His intention was to try to get a little more funding for some of the rural health care and county health care facilities. The amendment didn't get enough support from some of the country health care providers, but he still thought it was a good idea. It failed in the Senate 25/25.

CHAIRMAN ZOOK said it is one of those issues that people are set in their mind on.

- recess 10:16 -
- Reconvene 11:34 -

SEN. KEENAN asked if they made the decision on the restricted language.

Ms. Steinbeck wanted to know what the committee wanted to do with language that restricts the direct care wage increases on page B-9, lines 11-13. She wanted to know if they wanted to strike the language or leave it in.

CHAIRMAN ZOOK advised the department had no problem with it the way it was.

SEN. KEENAN asked if they covered a resolution on **SB 485** contingent voidness and the three options she mentioned previously.

Ms. Steinbeck advised **HB 2** and **SB 485** have appropriations for the same items. In **HB 2** there is close to \$9 million for the Prevention and Stabilization Fund for mental health services.

At some point the committee will have to align those two so there aren't appropriations in both cases.

SEN. KEENAN asked if they have accomplished getting the Prevention and Stabilization account out.

Ms. Purdy advised they have amendment **HB000272.als** that would do that. **EXHIBIT(frs89hb0002a13)**

Ms. Steinbeck said there are two amendments that accomplish the same thing in different ways. One strikes every appropriation in the Prevention and Stabilization Fund, and that is amendment 271. The other is a contingent voidness amendment that is in boilerplate.

Ms. Purdy advised if **SB 485** is going to be signed by the Governor in the form it's in currently, they can dispense with the language in **HB 2**. If there is any uncertainty over that, they may want a contingent voidness provision.

Motion: **SEN. KEENAN** moved that **HB000270.ALS BE ADOPTED.**
EXHIBIT(frs89hb0002a14)

SEN. KEENAN asked if **SB 485** is vetoed or doesn't get through 3rd Reading, does **HB 2** pick up these expenses.

Ms. Steinbeck advised **HB 2** has a Prevention and Stabilization Fund as well, and the appropriations still exist.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved a **CONCEPTUAL AMENDMENT TO TAKE A-K, AND INSERT THOSE NUMBERS INTO HB 2, REPLACING A AND B.**

Vote: Motion carried unanimously.

Motion/Vote: **SEN. KEENAN** moved **TO CLOSE SECTION B.** Motion carried unanimously.

Section C:

Motion: **SEN. KEENAN** moved that **HB000242.AGH BE ADOPTED.**
EXHIBIT(frs89hb0002a15)

SEN. KEENAN advised **SB 336** passed and this is the implementation language.

Gary Hamel, Legislative Fiscal Division, pointed out in drafting the amendment there was a slight change to the description. **SB 336** implements the operation and funding of the state parks system. That would be changed to the operation of the state parks and fishing access sites system.

SEN. KEENAN asked if that is to keep it in accordance with **SB 336**. He indicated the reason they have 42 state parks and 331 fishing access sites is because of a revenue stream from licenses, etc. He wondered if **SB 336** references fishing access sites in addition to state parks.

Mr. Hamel said he would have to review the bill.

SEN. KEENAN felt it was a policy decision. There are a lot of fishing access sites. There is special revenue for those, and there are a limited number of state parks because that is general fund or the interest out of the parks maintenance.

Mr. Hamel pointed out the general license account is used for fishing access sites could be used to replace that other state special revenue with a funding switch.

{Tape: 3; Side: A}

REP. PATTISON asked about the 4.73 FTE. **Mr. Hamel** advised they would be new FTE and are included as part of the fiscal note.

REP. PATTISON asked if that is to implement the new Brush Lake State Park.

CHAIRMAN ZOOK thought there is a misunderstanding. He thought only if **SB 336** passes would these be implemented.

Ms. Purdy advised if it doesn't pass, it continues the status quo.

Vote: Motion carried with Pattison voting no.

Motion: **SEN. KEENAN** moved that HB000248.AGH BE ADOPTED.

EXHIBIT(frs89hb0002a16)

Mr. Hamel advised the language being placed in **HB 2** at the request of the budget office does not appear valid as it intends to override some standard law. A legal opinion was obtained from **Greg Petesch, Legislative Counsel**, regarding this issue, who indicated language should not be placed in **HB 2** because the language was invalid and would not withstand legal scrutiny. The **Department of Natural Resources** has limited appropriation authority to use for fire costs, and the budget office is relying

on that language. According to the legal opinion, the language is invalid based on a couple of different points. The language conflicts with existing statutes that would be invalid and challenged. The opinion also points out language in **HB 2** cannot amend standard law. Since statute directs how state special revenue funds are to be used, this language is invalid. The second point focuses on the legislative intent portion of that language contained in **HB 2**. Since it has been established the legislature may not bind a future legislature to appropriate money, except for the creation of long term debt, the opinion indicates the narrative expressing legislative intent to replace the state special revenue expenditures with a general fund supplemental appropriation is meaningless at best. The issue was brought up at the June 2002 **Legislative Finance Committee** meeting. During that meeting a point was made the agency was only doing what the legislature told them to do; thus the legislature should raise no issue of how the department was using state special revenue to address fire costs. During the last legislative session, the legislature was unaware that piece of language had legal problems. Had these problems been brought to light during the session, the legislature may have chosen not to include this language in **HB 2**. There are other ways the department can address fire costs without injecting the questionable language into **HB 2**. One is the Governor's emergency fund if an emergency or disaster declaration is made by the Governor. There are general fund appropriations in the Water Resources and Forestry Division designated as biennial in nature earlier in the session. This gives the department flexibility to use those funds in both years of the biennium, and would allow the department to avoid asking for a supplemental.

Doug Schmitz, OBPP, advised the language was in **HB 2** for the current biennium. It became critical for them in trying to manage resources in fighting fires. The department incurred tremendous costs in responding to fires in Arizona, Colorado, California, and Oregon. He thought if they had not had this option, a special session would have been conceivable. The \$16 million in emergency monies are only for declared emergencies. For every day fire suppression costs, there is no appropriation from the legislature for the department.

CHAIRMAN ZOOK said **Mr. Schmitz** didn't answer the legal question. **Mr. Schmitz** advised he is not an attorney. In the interim, they met with the **Legislative Finance Committee** and determined there were two funds they could not use out of the state special revenue account. The other two were available for use, and those are the two they will probably continue to use if this language is available.

CHAIRMAN ZOOK said he was advised by a Fiscal Analyst this doesn't change the authority the department does have.

Ms. Purdy explained either the statute allows state special revenue to be used for this purpose or it does not. If it does, they can use it; if it does not, this language would not give them the authority to use those funds. In that regard, the language is useless.

CHAIRMAN ZOOK reasoned they should have had a bill that would allow that to happen.

Ms. Purdy advised if there was any question that some of those under state special revenue would be used for that purpose, the statute could be changed to allow it.

CHAIRMAN ZOOK asked if the source is the state special revenue trust lands. **Mr. Hamel** said that is correct. **CHAIRMAN ZOOK** thought it strange the source of funds from trust lands can't be used in order to protect them from fire.

Mr. Hamel advised for the accounts that can be used for fire suppression efforts, the legislature could do an appropriation from those particular funds for that purpose. The statute already allows that, and that option would be available as well.

CHAIRMAN ZOOK asked if they needed a different amendment. **Mr. Hamel** advised if they want to appropriate some funding from those sources for fire suppression, they could do that.

SEN. KEENAN withdrew his motion on 248.agh. He thought they were close to a conceptual amendment.

Ms. Purdy clarified if statute currently allows the department to use certain state special revenue funds for fire suppression, the amendment would provide the authority from those accounts in **HB 2**--probably with restriction.

CHAIRMAN ZOOK thought if something could be drafted quickly, they would come back to it.

Motion: **SEN. KEENAN** moved that **HB000255.AGH BE ADOPTED.**
EXHIBIT(frs89hb0002a17)

SEN. KEENAN advised this is \$10,000 to get the ball rolling for **FWP** related to **SB 395**, which eventually becomes a positive cash flow.

REP. LINDEEN asked if the source of state special revenue is licensing. **SEN. KEENAN** said yes, it is a general licensing account.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved that HGB000257.AGH BE ADOPTED.
EXHIBIT (frs89hb0002a18)

SEN. KEENAN advised the revenue source is state decals for out of state snowmobiles.

Discussion:

REP. PATTISON asked when this will take effect. He wondered if they pass this amendment now, would it be in effect before the subcommittee had a chance to take a look at it before the next session.

Mr. Hamel said the fiscal note indicates state special revenue of about \$181,500 would be coming in 2004 and about \$185,000 in FY 2005. The committee would have a number of different options. The legislature could decide to wait to see what kinds of projects would come forward before deciding to appropriate that funding. If the committee decides not to approve this amendment, the money would accumulate in those accounts and would not be spent during the upcoming biennium.

REP. PATTISON said the way this is currently written, the department could spend this for something else, because it is not restricted and there are no projects identified.

Mr. Hamel said the statute describes what those particular funds can be used for. This funding is restricted statutorily to enforcement activities and operational maintenance of snowmobile facilities.

REP. PATTISON said he would like to see more oversight. He asked **Ms. Purdy** if this is tight enough to keep the department from using the funds elsewhere. **Ms. Purdy** said the only way to prevent the use of these funds for some other purpose is to line item them and restrict their use.

CHAIRMAN ZOOK advised they can add the word "restricted." He asked if **SEN. KEENAN** would want to incorporate the word "restricted," and **SEN. KEENAN** indicated yes.

Vote: Motion carried unanimously.

Mr. Hamel advised after discussion with the department regarding 248.agh (Exhibit 17), the language for fire suppression, the department has indicated the cash is not sufficient in those particular funds to appropriate any more money out of those. The department requested the motion to withdraw the amendment remain, and the matter just go away.

Motion/Vote: SEN. NELSON moved to CLOSE SECTION C. Motion carried unanimously.

Section D:

Motion: SEN. KEENAN moved that HB000233.ATY BE ADOPTED.
EXHIBIT (frs89hb0002a19)

SEN. KEENAN said this brings the Department of Military Affairs up to the Executive budget level.

Discussion:

SEN. NELSON asked if Centralized Services was the only portion of that budget that was down.

Todd Younkin, Legislative Fiscal Division, indicated it was not the only division to have unspecified reductions coming out of subcommittee in the amount seen in the amendment. Disaster and Emergency Services had an unspecified reduction of approximately \$45,000 each year, and the Veteran's Affairs Division also had an unspecified reduction of approximately \$42,000 each year.

SEN. NELSON asked if they were only asking to restore Centralized Services. Mr. Younkin said that is correct.

REP. LINDEEN asked for more information regarding the Centralized Services Division. Mr. Younkin replied the division handles most of the administrative functions. They also play a major role in getting federal reimbursements. The Executive budget contained one FTE reduction. The unspecified reduction would most likely lead to a two FTE reduction.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: SEN. KEENAN moved that HB000251.ATY BE ADOPTED.
EXHIBIT (frs89hb0002a20)

SEN. KEENAN advised this is connected with SB 271, and enables the unemployment insurance collection transfer to the Department of Labor and Industry.

Vote: Motion carried unanimously.

Motion/Vote: REP. LEWIS moved to reconsider action on HB000254.ATY. **EXHIBIT**(frs89hb0002a21) Motion carried unanimously.

{Tape: 3; Side: B}

Motion: REP. LEWIS moved that HB000254.ATY BE ADOPTED. Vote: Motion carried unanimously.

Discussion:

REP. LINDEEN asked about HB000242.aty, which implements SB 183. **EXHIBIT**(frs89hb0002a22) SEN. KEENAN advised the Department of Corrections will eat that if the bill becomes a reality.

Motion: REP. PATTISON moved that HB000256.ATY BE ADOPTED. **EXHIBIT**(frs89hb0002a23)

REP. PATTISON said this is to bring the National Guard Scholarship Program up to the Governor's level of funding.

Vote: Motion carried with Lindeen voting no.

Motion: SEN. KEENAN moved TO RECONSIDER ACTION ON HB000248.ALT and HB000239.ALT for the Public Service Commission. **EXHIBIT**(frs89hb0002a24) **EXHIBIT**(frs89hb0002a25)

Ms. Purdy advised the two amendments were passed on a previous day.

REP. LINDEEN asked why they should reconsider. SEN. KEENAN advised he was concerned the PSC wants to contract out the costs of consultants and advisory services and evaluate utilities for falsified resource procurement plans. This would be an outside contract.

REP. LEWIS said Northwestern Energy had talked to him about this. The original amendment had \$1 million in it. Northwestern thought that was excessive, and they talked about cutting it back to \$500,000. They didn't have any problems with the contracting, they just didn't want to get tapped for \$1 million to do it.

SEN. KEENAN withdrew his motion. He was uncomfortable with the 1/2 FTE at a high grade level in each of these amendments. He was concerned about the way this came before them. He asked about HB 641 and HB 580. Ms. Purdy advised HB 580 is in law.

SEN. KEENAN said the fiscal note on **HB 580** is for dispute resolutions in the **PSC**. Expenditures in the fiscal note were \$20,209, and somehow the amendments were double that. **Ms. Purdy** disagreed and said the amount in the amendments is a biennial amount. **SEN. KEENAN** noted the fiscal notes for the two bills are basically identical. He remembered there is a set up fee for a state employee of about \$1760 per employee. He hoped they were not doubling up on that with each 1/2 FTE. He assumed the same person is going to do these two half time jobs.

Mr. Younkin advised the amendment that was requested and drafted was all personal services. There are no operating expenses for either 1/2 FTE.

Motion/Vote: **CHAIRMAN ZOOK** moved TO CLOSE SECTION D. Motion carried unanimously.

Section E:

CHAIRMAN ZOOK advised there is a new amendment as a result of action taken in the Free Conference Committee on **SB 424**. He complimented **SEN. NELSON** on her work.

Motion: **SEN. NELSON** Moved that HB000235.ajs be adopted.
EXHIBIT (frs89hb0002a26)

Jim Standaert, Legislative Fiscal Division, explained the amendment includes all the changes to the law that were combined in **SB 424**, the main school funding bill. There are several other smaller bills which affected Base aid, and a couple of line items. **Mr. Standaert** advised a big part of this increase is an increase of 1.1% in the first year, and 2.07% in the second year.

REP. LEWIS asked about the bottom line, and if there is more general fund in the budget. **Mr. Standaert** explained the effect of **SB 424** is basically zero on the bottom line. It increases both Base aid and special ed by \$21 million and saves \$21 million in **HB 124** block grants.

REP. LINDEEN asked if it is also true the net effect of **SB 424** is \$8.9 million to the taxpayers in 2004 and \$1.9 in 2005. **Mr. Standaert** said that is correct. **REP. LINDEEN** asked about the amendments implementing the various bills. She said they already had a amendment in Section C which implemented **SB 409** for \$300,000 in state special. She wondered about overlap. **Mr. Standaert** advised the \$300,000 is a reduction in the guarantee account. That money is going to be used in **DNRC**, and is not available to schools.

REP. LEWIS asked about the impact to the taxpayers. **Mr. Standaert** indicated in the first year they are implementing the elimination of the **HB 124** block grants for the county education retirement funds. That by itself is a little over \$8 million increase to the local taxpayers because they're not going to get that state money. In 2004, there is no offsetting reduction in their taxes so there will be an increase in property taxes of \$8.9 million in the first year. Those taxes will go back down in the second year.

CHAIRMAN ZOOK asked by what amount in the second year. **Mr. Standaert** advised the increase in the second year is \$1.9 million, relative to the same Base.

REP. LINDEEN asked **Mr. Standaert** if he is saying there is no net increase in the biennium. **Mr. Standaert** acknowledged there is a net increase.

SEN. KEENAN asked what happens in the next biennium. **Mr. Standaert** advised that's when they start making up ground on this. **SEN. KEENAN** indicated property tax will be down in the third year.

Director Swysgood advised in the out years after the next biennium, the local taxpayers' tax obligation would decrease because federal retirement kicks in. There will be an offsetting decrease in property taxes because of that. After the first two years there is about a \$10 million decrease.

REP. LINDEEN said with all due respect to her colleague, **SEN. NELSON**, and all those who worked on this, she had to disagree. She didn't know for sure there would be any offsets in the outgoing years. If the next legislative session continues like the last three sessions, she didn't think there would be any offset. She said it is somebody putting money in your front pocket and taking it out of your back pocket. There is a substantial increase to property taxpayers and she could not support the amendment.

SEN. KEENAN asked **Amy Carlson, OBPP**, about the reductions in the out years. **Ms. Carlson** advised the way it's structured, there is a first year hit because they're taking the block grants before they're reinstating the retirement program. It is the retirement that makes it all balance. In the first year, they are not balanced, and in the second year they are. In all outgoing years they're balanced, and they start making a little bit of extra money each time. As the federal government increases their spending, the state is no longer charging taxpayers general fund. Her analysis was in the first year the taxpayers will pay about

\$8 million, and the next year is about neutral. Each year after that, they will save the taxpayers \$1 million to \$1.5 million every year. **SEN. KEENAN** asked about the total statewide property tax contribution to schools. **CHAIRMAN ZOOK** advised last year the general fund contributed \$1.3 billion for K-12 for the biennium.
{Tape: 4; Side: A}

SEN. KEENAN asked for a general big number on property tax towards education. **Mr. Standaert** thought it was around \$225 million.

CHAIRMAN ZOOK asked **Mr. Standaert** what the figure is for this biennium if this bill makes it all the way through. He wondered what is the total general fund that is going to K-12. **Mr. Standaert** indicated it was about the same as the last biennium--\$1.2 billion for the biennium. There is an \$8 million difference between the two bienniums. This biennium is \$8 million below the previous biennium. **CHAIRMAN ZOOK** said he was not talking about what was spent, but what was appropriated. **Mr. Standaert** said in FY 03, they spent money out of the guarantee fund, which was not in the general fund. **CHAIRMAN ZOOK** thought the general fund appropriations for K-12 went down in 1993, but every year other than 1993, it has increased. **Mr. Standaert** agreed.

SEN. NELSON clarified it wasn't just putting money in the front pocket and taking it out the back. It's like putting a dollar in the front pocket and taking 50 cents out the back. She contended there is a gain by this bill. **CHAIRMAN ZOOK** said he couldn't agree more.

REP. PATTISON asked **Ms. Carlson** about how the funding works in the outlying years. **Ms. Carlson** advised currently districts charge the costs for all employees, including retirements, social security, Medicare, and unemployment insurance to the retirement fund in the district. The retirement fund in the district is funded by a county levy and state guaranteed tax base match. Whenever the federal government spends an initial dollar in the district, 15 cents is charged to the county retirement levy. As federal dollars increase in the future, the state is not having to match the 15 cents anymore and the state puts it's money into Base aid. **REP. PATTISON** asked if she is projecting funding from the federal government is going to continue to increase at the current level. **Ms. Carlson** said they are counting on the money they know for 2004 and a pretty good guess for 2005. She hasn't tried to make projections beyond that. The federal government has taken on a stronger role in education, and it looks like that is going to continue, but she can't guarantee that. **REP. PATTISON** asked what is required of the state to continue to

receive that extra federal funding. **Ms. Carlson** indicated they are continuing to spend this money on those programs. They're just not taking additional state and local money and matching those programs. Districts can choose to use their own general fund dollars to supplement those federal programs, but they are not being required to do that.

REP. LINDEEN asked if it would be true to say the majority of the increase in K-12 spending is federal dollars and that those federal dollars are restricted to be spent on certain programs.

Ms. Carlson advised the increases for the federal programs will continue to go to the federal programs. There is no diversion of that money to another program. Those programs will not be subsidized with the retirement fund any more.

SEN. KEENAN advised using a baseline average of 3.6% increase in federal funds per year. In the third year through 2014 state savings are \$4 million. The local property tax reduction is \$10 million in the third year and ratchets up a little each year out through those years. The taxpayers pay up front the first two years, and then the reductions go on forever.

SEN. JOHN ESP advised the analogy **SEN. NELSON** used about the dollar going in the front and 50 cents going out the back might be slightly exaggerated in the amounts, but the dollar going in the front under this bill is a lot more flexible as far as how schools can spend it than the 50 cents going out the back. He thought that is the value of this bill. The money is more flexible and is in the general fund, not in the retirement funds, and that's why it's better.

REP. LINDEEN stated her point of view was there is a \$10 million increase to property taxpayers in the next biennium. Whether or not there is some payback to property taxpayers in the out going years, she didn't know. That doesn't take into account anything that is going to occur in the next legislative session. She felt they still don't have the kind of revenue they need in this legislative session in order to do this right. She acknowledged this is the best compromise they could come up with, but didn't feel they were doing it the right way.

CHAIRMAN ZOOK wished more people in the legislature shared her concern about property tax, because they had a wonderful opportunity to pass a sales tax bill, but that didn't pass. **SEN. KEENAN** added it didn't pass in the House.

Vote: Motion carried with Lindeen voting no.

Motion: SEN. KEENAN moved that HB000203.AJM BE ADOPTED.
EXHIBIT(frs89hb0002a27)

SEN. KEENAN explained this is for a grant application related to establishing a community college in Phillipsburg. He indicated he had \$26,500 left as a funding source.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: REP. LEWIS moved that HB000246.AJS BE ADOPTED.
EXHIBIT(frs89hb0002a28)

REP. LEWIS advised this is a technical amendment that consolidates the federal appropriation authority into one line for the **Office of Public Instruction** and will simplify the accounting.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000246.ALZ BE ADOPTED.
EXHIBIT(frs89hb0002a29)

SEN. KEENAN said this has to do with **SB 232** which would transferred the **Heritage Commission** to the **Department of Commerce**. The amendment moves the money with that function.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000247.APJ BE ADOPTED.
EXHIBIT(frs89hb0002a30)

SEN. KEENAN said this adds \$900,000 to the Community College Assistance program in the office of the **Commissioner of Higher Education**. In answer to a question from **REP. LINDEEN**, he indicated it is a line item in the Community College Assistance program.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved that HB000237.AJS BE ADOPTED.
EXHIBIT(frs89hb0002a31)

SEN. KEENAN advised this removes an amendment that was passed on the Senate floor, and puts language in for the flex fund that there is spending authority for any grants designated to school districts for staff recruitment, retention or retirement incentives up to \$500.

Ms. Purdy indicated this hasn't gone to legal review, and they asked for indulgence to change it as needed, which was granted.

REP. LINDEEN wanted to make sure there was no actual reduction to education. **SEN. KEENAN** said there isn't. It gives spending authority of up to \$5 million should any money be brought into the flex fund.

Vote: Motion carried unanimously.

Motion: REP. PATTISON moved that HB000260.ALZ BE ADOPTED.
EXHIBIT (frs89hb0002a32)

REP. PATTISON said this reduces funding in the **Montana Arts Council**. They were over the Governor's budget, and he thought it would be fair.

SEN. NELSON advised \$100,000 would be a big hit on this department. She asked to hear from **Arnie Fishbaugh, Director, Montana Arts Council**. **Director Fishbaugh** addressed the impact of this amendment. In the special session, the agency took a cut that was three times the average of the rest of the cuts in state government. The cut in the Governor's budget is twice the average cut of all the other state agencies. This cut doesn't impact the Helena bureaucracy. This cut will impact the Missoula Children's Theater, Shakespeare in the Parks, the Custer County Arts Center, the Arts Education Residency program which serves five counties in eastern Montana, and other kinds of arts education programs that are vital in helping schools in rural communities meet the arts requirements. The **Arts Council** budget increase since 1994 is the smallest of any state increase. Their budget has only increased by 7% in the last ten years compared to an average of from 30% to 180% for other state agencies. This agency is one of the best investments for the state. She respectfully asked they reject the amendment.

SEN. NELSON spoke against the amendment. This is what gets arts programs into rural communities and schools.

REP. PATTISON claimed he was not destroying this program, he was just bringing it down to the Governor's proposal. He said they had salary increases of 18%. He thought it was a good amendment, and it was the right and responsible thing to do.

REP. LINDEEN asked how many departments and programs are still above the Executive budget.

Mr. Schenck advised prior to action in conference committee, the Judiciary is \$515,000 above. In conference committee, they were

given another \$1.8 million that is somewhat contingent. The **Department of Public Health and Human Services** is above the Executive by \$30 million. The Governor's office was brought back to the Executive budget, and **OPI** would be above the Executive by around \$6 million. The **Board of Public Education** and **School for the Deaf and Blind** are above the Executive by under \$100,000 each.

REP. LINDEEN said they make these kinds of policy decisions based on what's right or on the actual program that benefits Montanans. She didn't think they should be making these decisions based on a number in the Governor's budget, but on what's best for Montana. Taking out just about all the money for the **Arts Council** is not right, and she indicated she would vote no.

CHAIRMAN ZOOK recapped the programs that were still above the Governor's budget.

SEN. KEENAN addressed the comment about taking out just about all the money from the **Arts Council**, and asked what is their total budget including federal grants. **REP. LINDEEN** said she was just looking at the amendment, and apologized if she mis-spoke.

Ms. Purdy advised the total current budget for the **Arts Council** is \$1.1 million, of which \$338,000 is general fund and about \$600,000 is federal in state special revenue.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: **REP. LINDEEN** moved TO RECONSIDER ACTION ON THE YELLOW BAY WATER QUALITY MONITORING (HB000255.APH).

EXHIBIT(frs89hb0002a33)

SEN. KEENAN explained in free conference committee in 2001, they put \$200,000 restricted biennial one-time-only appropriation for the conduct of a water quality study regarding coal bed methane. That \$200,000 was reduced to \$196,500 after the special session in 2002. Through subcommittee work, the one-time-only survived as decision package line 20, and went into the base ongoing. This amendment reduced the lump sum by the \$196,500 to reflect the intentions of two years ago for a one-time-only earmarking for a specific project, and put \$85,000, which has been the traditional amount to conduct water quality monitoring, etc., in the Flathead Basin, rather than having it go into the Base and disappear forever. The other \$26,000 went into the general fund.

{Tape: 4; Side: B}

Note: Tape was inadvertently on 2.4 speed for the first 1.7 minutes of this side.

SEN. KEENAN indicated this should not have any impact on tuition, etc.

REP. LINDEEN withdrew her motion.

Motion/Vote: **REP. LEWIS** moved to CLOSE SECTION E. Motion carried unanimously.

- Recess 1:10 -
- Reconvene 1:25 -

Ms. Purdy asked for a motion for the committee so staff could clean up any contingency language that is no longer necessary.

Motion: **REP. LEWIS** so moved.

REP. LINDEEN asked if this would include taking out all the contingent language that dealt with the coal trust fund. **Ms. Purdy** advised not at this time, as it was still theoretically possible there could be a 3/4 vote on **HB 2**.

REP. LINDEEN advised common sense says that is not going to happen. There is no reason not to clean up **HB 2** and get rid of that contingent language as well.

CHAIRMAN ZOOK said if she makes a motion they will act on it. If it stays in, people will have the opportunity to vote for additional services or not.

Substitute Motion: **REP. LINDEEN** made a substitute motion TO ADD LANGUAGE TO THE LIST TO REMOVE THE REST OF THE CONTINGENCY LANGUAGE ON THE COAL TRUST.

Ms. Purdy asked if this would include taking off the line items, or just the language. The coal tax is in the bill in various line items, and the language verifies what that is. **REP. LINDEEN** replied yes, as long as it actually didn't remove any programs.

Vote: Motion failed with Lindeen and Nelson voting yes.

SEN. KEENAN asked if the motion includes contingency language on **SB 424**. **Ms. Purdy** advised the only contingency language they can take out, is if the bill has actually been signed by the Governor. **SEN. KEENAN** said the other bills that might fall under this category already have contingent voidness language.

Vote: Motion carried unanimously.

Motion/Vote: SEN. KEENAN moved a CONCEPTUAL AMENDMENT FOR CONTINGENT VOIDNESS IF THERE IS NOT PASSAGE AND APPROVAL OF SB 424. Motion carried unanimously.

Motion: REP. LEWIS moved that HB000258.APJ BE ADOPTED.
EXHIBIT(frs89hb0002a34)

REP. LEWIS advised this deletes all references to the coal trust put on in the Senate, and replaces it with a conference committee coal trust amendment. This amendment will use \$23 million for various items listed on the back of the amendment.

CHAIRMAN ZOOK indicated this is the sort of thing polls say people want to do.

SEN. LINDEEN spoke against the motion. She said this is not going to happen for a lot of good reasons. The coal trust is an incredible economic development resource for the state of Montana which creates jobs, builds infrastructure, gives businesses loans, etc. Doing this is more one-time funding for ongoing state expenses. Even without this amendment, they have created an incredible hole in this budget cycle with one-time funding sources. She thought they need to start being up front with the people of Montana about the fact that they are continuing to dig a deeper hole. They need to be fiscally responsible, and she thought all the one-time funding in the budget is not fiscally responsible. Trying to include more one-time funding with this type of amendment is further fiscal irresponsibility. She indicated she would vote no.

SEN. NELSON thought they all knew where they're at with this issue, and urged them to go ahead and vote.

Vote: Motion carried with Lindeen and Nelson voting no.

Motion: REP. LEWIS moved that HB000218.ATP BE ADOPTED.
EXHIBIT(frs89hb0002a35)

REP. LEWIS advised the amendment is a global motion that would increase vacancy savings to allow providing a 25 cent an hour pay raise for state employees in the second year of the biennium. The use of vacancy savings allows the Executive more flexibility than some of the other proposals, and this is a reasonable compromise on the issue of increasing employee compensation to help offset the increased cost of health insurance.

Discussion:

SEN. NELSON asked if this is across the board, and what is the percentage. **REP. LEWIS** referred her to a schedule on the back page of the amendment which shows which agencies would be assessed for vacancy savings by agency number. **SEN. NELSON** asked if they were varied and if some agencies were exempt.

Amy Sassano, OBPP, advised these reductions are based on a 200 FTE reduction across all state agencies, and also based on an average state employee as determined by the state personnel division. This amendment only covers the general fund portion of those reductions, and it is roughly equivalent to an additional 2% vacancy savings.

Vote: Motion carried unanimously.

Director Swysgood thanked everyone for their hard work in a difficult situation.

Motion/Vote: REP. LEWIS moved CLOSE HB 2. Motion carried unanimously.

Motion/Vote: REP. LEWIS moved that HB 2 DO PASS AS AMENDED. Motion carried with Lindeen and Nelson voting no.

ADJOURNMENT

Adjournment: 1:20 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/DL/

EXHIBIT (frs89hb0002aad)